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IN THE HIGH COURT OF DELHI AT NEW DELHI
Date of Decision-08.02.2018

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W.P.(C) 875/2018 & C.M.No.3717/2018(for exemption)

HARIJAN-PICHHARA VARG AVAM GRAM SUDHAR

SAMITI (REGD.) & ORS

..... Petitioner

Through Mr.R.K.Bachchan, Advocate.

versus

THE GOVT. OF NCT OF DELHI & ORS Respondent

Through Mr.Anuj Aggarwal, ASC with
Ms.Deboshree Mukherjee, Advocates for R-
1,2,3,6&7.

Mr.Arun Birbal with Mr.Sanjay Singh &
Mr.Ajay Birbal, Advocates for DDA.

Ms.Puja Kalra, Standing Counsel with
Mr.Virendra Singh, Advocate for R-4.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J(ORAL)

1. The two Petitioners, claiming to be Registered Societies formed for the protection of rights and upliftment of the people belonging to Dalit society and backward classes coming from very poor strata, have preferred the present writ petition under Article 226 of the Constitution of India, praying for a direction to the Respondents to carry out demarcation in Khasra No.64,65,66,294/67,295/67,296/68,298/68 of Village Wazirabad,

Delhi & allot the land to the persons holding LR 37 receipts issued in the year 1975-76.

2. As per the Petitioners, in the year 1975-76, under the 20 Point Programme of Central Government, persons belonging to the schedule castes and other backward castes in village Wazirabad, were allotted residential plots of size of 120 sq. yds. near Shiv Mandir by way of L.R. Form/Receipt No. 37 under Rule 174 of the Land Reform Rules. It is claimed by the petitioners that in the year 1978, there was a massive flood in village Wazirabad and as a consequence whereof, the entire construction made by the allottees in their plots was swept away by water. The Petitioners claim that the flood was so immense that it submerged a large area of land and as a result thereof, after the recession of water, the allottees could not locate their respective plots.

3. The petitioners claim that since, the allottees were unable to trace out their plots they made repeated requests to the Tehsildar and B.D.O., Alipur to provide them with the record of the details of the allotment of the plots but since no heed was paid to their requests, they submitted a representation dated 25.02.1988 to the Lieutenant Governor of Delhi. It is the further case of the petitioners that even the

Lieutenant Governor did not take any action on their representation and, therefore, the allottees, who claim to be very poor persons, kept meeting the higher authorities for the next 20 years to stop illegal constructions and encroachment of lands on the plots, which, according to them, had been allotted to them.

4. As per the Petitioners, on 06.11.2007, the SDM Civil Lines wrote a letter to the Chief Engineer, Flood Control Department to stop illegal construction in Khasra No. 64, 65, 66, 294/67, 295/67, 296/68, 298/68 and demolish the illegal construction made thereupon. After a period of another five years, the Petitioner no. 1 claims to have written a letter dated 30.07.2012 to the Deputy Commissioner bringing to his notice that due to non-demarcation of the plots of the land allotted to the landless villagers in 1975/76, encroachment was being carried out by unauthorised persons on the said land. It is the further case of the petitioners that in the year 2014, the authorities started taking steps to forcibly evict the villagers who were holders of LR forms compelling some of the allottees to approach this court by way of a writ petition being WP(C) No. 1779/2014 with a grievance that despite holding LR forms, they were being evicted from their houses built on the allotted

land, without following due process of law. After noticing the fact that the residential *patta* by way of LR forms issued for nine years had already lapsed, this Court disposed of the writ petition vide its order dated 19.03.2014 with a direction to Respondents to take action against the Petitioners therein only in accordance with law.

5. On 20.02.2015, the Petitioners herein made a representation to the Lieutenant Governor of Delhi (hereinafter referred to as LG) on behalf of all the allottees praying for the subject land to be demarcated and handed over to them. The Petitioners claim that from 2014 they have made repeated complaints/representations to the authorities about the illegal encroachment of the subject land by various private persons and their attempt to sell parts of the land.

6. Finally on 03.08.2016, the President of Petitioner no.1 filed a complaint before the Public Grievance Commission (hereinafter referred to as PGC), which was registered as Grievance case No. PGC/2016/DJB/56. Acting on the aforesaid complaint, the PGC called for reports from the SDM (Civil Lines). From the status reports filed by the SDM before the PGC, it transpired that the entire land claimed by the Petitioner in Khasra No. No. 64/1,65,76,295-294/67/1

had been acquired vide award No. 45/79-80 and Notification No. F.7(80)/78-L&B(i) dated 15.02.1979 for the construction of a supplementary drain to Wazirabad. As per the "Kabza Karyewahi" report dated 23.03.1979 it was clear that all the land claimed by the Petitioners bearing Khasra No. 64, 65, 66, 294/67, 295/67, 296/68, 297/68 and 298/68 of the gram sabha including the 20 Point Programme Plots/land had been handed over to Respondent No. 2 in 1979 itself. The PGC, accordingly, closed the grievance case of the Petitioner vide the order dated 23.11.2017.

7. In these circumstances, the Petitioner have approached this court seeking directions to the Respondents to take action against the illegal encroachment and construction that is allegedly being carried out on the subject land. The Petitioners further pray that fresh demarcation proceedings should be conducted and on the basis of the same the Respondents should be directed to allot the plots/land to all the L.R. form 37 holders. The Petitioners have also made an alternate prayer that in case, for any reason, the possession of the plots allotted to the LR 37 receipt holders, cannot be granted to them, the Respondents should be directed to allot them alternate plots.

8. Learned counsel for the Petitioner submits that the Petitioners are representing the interest of over 90 poor persons belonging to the Scheduled Caste and Other Backward Classes who have been deprived of the land allotted to them in the year 1975-76 under proper LR 37 receipts. He submits that ever since their houses were submerged in water and destroyed due to the flood in 1978, they have been running from pillar to post requesting for a fresh demarcation of the land near Shiv Mandir, Wazirabad, so that they can re-construct their houses but no heed has been paid to their repeated requests and it is only in these circumstances that the Petitioners have approached this Court on their behalf.

9. The Learned counsel for the Petitioners submits that the allottees are very poor persons belonging to the Scheduled Caste and other backward castes and, therefore, their claim ought not to be rejected merely because of delay on their part in approaching this Court.

10. While referring to the order passed by the P.G.C., Mr.R.K.Bachchan, the learned counsel for the Petitioners submits that even though the land allotted to their members may have been

acquired for the use of Irrigation and Flood Department vide award dated 15.02.1979, but contends that since none of the allottees were paid any compensation for the said acquisition, they cannot be deprived of the use of the land which was allotted to them under the 20 point programme in the year 1975/1976.

11. Mr.Bachchan, further submits that in case the land allotted to the allottees stands acquired or possession thereof cannot be given to them for any reason whatsoever, they ought to be granted alternate plots in lieu of their valid LR 37 forms.

12. On the other hand, Mr.Anuj Aggarwal appearing for the Respondent nos.1,2,3,6&7 i.e. the Revenue Department, Govt of NCT of Delhi as also for the Irrigation & Flood Control Department while opposing the petition, submits that the present petition is wholly misconceived and hopelessly barred by delay and laches. He submits that the land claimed by the Petitioners stood acquired vide an award dated 15.02.1979 for the Irrigation and Flood Control Department and the Petitioners cannot now after a period of almost 40 years claim demarcation or possession of the plots, which even as per their own case is not with them since the year 1978.

13. Mr. Aggarwal also draws my attention to the order dated 19.03.2014 passed by this Court in W.P.(C)No.1779/2014 filed by some of the allottees in support of his contention that even otherwise that LR form no.37 issued to the allottees were valid only for a period of nine years, which period had already elapsed long ago and, therefore, the claim of the Petitioner for grant of alternate plots was also liable to be rejected.

14. Having considered the rival submissions of the parties and perused the record, I find absolutely no merit in the petition, which must fail. The entire claim of the Petitioners is based on LR no.37 forms issued to the allottees in 1975/76 whereby they were allotted plots measuring 120 sq. yds. each under the 20 point programme. I find that even though none of these LR 37 form receipts have been placed on record by the Petitioner, but a perusal of order dated 19.03.2014 passed by this Court in W.P.(C)No.1779/2014 in itself shows that these LR no.37 forms had granted only a nine years residential *patta* to the allottees in the year 1976 which period stands elapsed more than 30 years ago and it is, therefore, incomprehensible

as to how the allottees even otherwise can claim any right over the plots allegedly allotted to them in the year 1976.

15. The Petitioners or any of the allottees, whose cause is being espoused by the Petitioners have given no justifiable reasons as to why they have no action for the last 40 years, if they were dispossessed of their plots in the year 1978. The only explanation given by the learned counsel for the Petitioners, that they are poor people belonging to schedule castes and other backward castes, is no ground to condone or ignore that extremely inordinate delay of 40 years.

16. The Petitioners have also been unable to deny the fact that the land which they are claiming was allotted to their members was acquired vide award dated 15.02.1979 and possession thereof handed over to Respondent no.2 in 1979. In any view, merely because the Petitioners deny having received any compensation pursuant to said award, cannot be a ground to tinker with the award after 39 years and that too when the correspondence filed by the Petitioners in itself shows that they were always aware about the land having been acquired by Irrigation and Flood Department in the year 1979.

17. The alternate prayer made by learned counsel for the Petitioners for issuance of a direction to the Respondents to grant them alternate plots is equally without any merit and grossly barred by delay and laches. It is settled law that one of the several rules of self-imposed restraint evolved by the superior courts is that High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled rights of the third parties. In the opinion of this Court, the test to be applied is whether laches on the part of the petitioner is such as to hold that the petitioner by its act and conduct has given a go-by to his rights.

18. Reference may be made to a judgment passed by the Supreme Court in ***State of Uttaranchal and Anr. vs. Sri Shiv Charan Singh Bhandari and Ors.***, registered as 2013 (11) SCALE 56 wherein the Supreme Court in paras 15,16,18 & 22, with regard to delay and laches, held as under:-

"15. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time. In Karnataka Power Corporation Ltd. through its Chairman and Managing Director v. K. Thangappan and Anr. (2006) 4 SCC 322, the Court took note of the factual position and laid down that when nearly for two decades the Respondent-workmen therein had remained silent mere making of representations could not justify a belated approach.

16. In State of Orissa v. Pyarimohan Samantaray (1977) 3 SCC 396 it has been opined that making of repeated representations is not a satisfactory explanation of delay. The said principle was

reiterated in *State of Orissa v. Arun Kumar Patnaik* (1976) 3 SCC 579.

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18. In *State of T.N. v. Seshachalam* (2007) 10 SCC 137, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: ...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.

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22. We are absolutely conscious that in the case at hand the seniority has not been disturbed in the promotional cadre and no promotions may be unsettled. There may not be unsettlement of the settled position but, a pregnant one, the Respondents chose to sleep like Rip Van Winkle and got up from their slumber at their own leisure, for some reason which is fathomable to them only. But such fathoming of reasons by oneself is not countenanced in law. Anyone who sleeps over his right is bound to suffer. As we perceive neither the tribunal nor the High Court has appreciated these aspects in proper perspective and proceeded on the base that a junior was promoted and, therefore, the seniors cannot be denied the promotion. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion. We may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. But, a stale claim of getting promotional benefits definitely should not have been entertained by the tribunal and accepted by the High Court. True it is, notional promotional benefits have been granted but the same is likely to affect the State exchequer regard being had to the fixation of pay and the

pension. These aspects have not been taken into consideration. What is urged before us by the learned Counsel for the Respondents is that they should have been equally treated with Madhav Singh Tadagi. But equality has to be claimed at the right juncture and not after expiry of two decades. Not for nothing, it has been said that everything may stop but not the time, for all are in a way slaves of time. There may not be any provision providing for limitation but a grievance relating to promotion cannot be given a new lease of life at any point of time.”

19. Keeping in view the inordinate delay of almost 40 years in approaching this Court as also the admitted position that the land in question already stood acquired in 1979 and thereafter allotted to Respondent no.2, I find no merit in the writ petition, which is accordingly dismissed alongwith the pending application without any order as to costs.

REKHA PALLI, J

FEBRUARY 08, 2018

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